IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE SIDE

CRIMINAL REVN. APPLICATION NO.350 OF 2000

Kavita Divyakant Patel .. ..Petitioner

Versus

Divyakant Ambalal Patel & Ors. .. ..Respondents

Mr. A.A. Garge for petitioner

Mr. R.D.Suryawanshi for respondent no.1 to 3

Mr. Y.M.Nakhwa, APP for State

CORAM : S.C.DHARMADHIKARI,J.

DATE : 13TH NOVEMBER, 2006

P.C.:

1. This is a revision application preferred by the wife Kavita, at whose instance the State initiated proceedings against the accused alleging offence punishable under Section 498A of I.P.C.

2. Regular Criminal Case No.725 of 1995 was tried by

the learned Chief Judicial Magistrate, Thane and he delivered his judgment of acquittal of the accused on 3.5.1999.

3. Mr. Garge appearing for the applicant-wife submits that the order of acquittal is based upon the alleged delay of two years in lodging the complaint to the concerned police station. He submits that the delay has been satisfactorily explained, in as much as, negotiations were going on between parties. Normally, wife would resort to filing of a criminal case only upon failure of such negotiations and as a last resort. Therefore, the question of delay should not have been taken into consideration. The trial court has erred in law in taking the same into consideration. The judgment is rendered by the trial court ignoring vital evidence and even the answers given by accused during recording of statement under Section 313 of Cr.P.C. He submits that the trial court has thus committed an error apparent resulting in manifest injustice. This would warrant interference by this court in revisional jurisdiction.

4. I have perused the judgment of the trial court with the assistance of Shri Garge and Shri Suryawanshi

appearing for the accused. I have also perused the statement recorded under section 313 of Cr.P.C. In my view, the learned judge has assigned cogent and satisfactory reasons while recording the conclusion and finding of acquittal of the accused. Apart from relying upon the aspect of delay, he has also taken into consideration the evidence which has been led by the prosecution. The trial court in its judgement has pointed out very categorically that the dispute essentially centres around purchasing of an immovable property and as to whether the same should be purchased in the name of the mother-in-law of the complainant or for the benefit of the complainant and her husband. The learned judge has held that there is no material on record to show that the flat was purchased in the name of the complainant or her mother-in-law. The prosecution has not placed on record any documentary evidence. Therefore, the version of the complainant that threats were administered so as to delete her name from the flat are not substantiated. The agreement in respect of the flat is executed, according to the larned judge, much prior to the date of marriage. In such circumstances, the learned judge was right that the complainant was unable to substantiate her pleas and allegations. No documentary evidence was placed on record

with regard to the injuries and even the medical certificate has not been proved. In these circumstances, the testimony of the complainant and other witnesses has not been relied upon. The learned judge has pointed out the glaring discrepancies and vital omissions.

5. In such circumstances, I am of the opinion that this is not a fit case for exercising the revisional jurisdiction. This is not a court of further appeal and it is impermissible to reappreciate and reappraise the materials on record. The limits of revisional jurisdiction being they are, this is not a fit case for interference. Revision application is rejected.

(S.C.Dharmadhikari, J.)